



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOTEL BOURBON
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

Pursuant to the *Act*, and amendments thereto I was designated to hear this matter under section 58. This hearing was scheduled as a result of an application from the tenant under the *Residential Tenancy Act* ("the *Act*"). The tenant applied to cancel the landlord's 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") pursuant to section 47.

The tenant did not attend although the 11:00 am teleconference continued until 11:17 am. A tenant's advocate attended the hearing. She testified that she did not have instructions to act as agent for the tenant in this hearing and was unable to represent the tenant in these circumstances.

Two representatives of the landlord (Landlord GM and Landlord BP) attended this hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlords testified that a 10 Day Notice to End Tenancy for Unpaid Rent was served to the tenant on July 2, 2015 however the landlords had made no application with respect to that 10 Day Notice. Landlord GM gave sworn testimony that he personally served the tenant with a 1 Month Notice to End Tenancy for Cause dated June 4, 2015 with an effective date of July 31, 2015. Landlord BP gave sworn testimony that he personally served the tenant with the landlord's Application for Dispute Resolution hearing package on June 11, 2015. I accept that the tenant was duly served with the 1 Month Notice and the landlord's Application for Dispute Resolution hearing package.

With respect to the tenant's failure to attend this hearing, Rule 10.1 of the Rules of Procedure provides as follows:

The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute

resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the tenant's participation in this hearing to support his application and given the evidence provided at this hearing, **I order the tenant's application dismissed without liberty to reapply.**

Issue(s) to be Decided

As the tenant failed to attend, his application is dismissed. Pursuant to section 55, is the landlord entitled to an Order of Possession?

Background and Evidence

Landlord GM gave evidence, in testimony and in documentary submissions that the rental agreement for the premises began on July 6, 2011. The rental amount for this unit is currently \$525.00 payable on the first of each month. The landlord testified that she continues to hold the \$250.00 security deposit that the tenant paid on July 6, 2011.

At this hearing, the landlord made an oral application for an Order of Possession for Cause, relying on documentary evidence submitted to support three grounds to end tenancy;

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

Landlord GM testified that the tenant often keeps an abundance of unclean items in the hallway near his rental unit. Landlord GM testified that there are bugs in these piles of items. The landlords submitted photographic evidence showing items in the hallway and the tenant with those items. The landlords also submitted letters of complaint from five different occupants of the residential premises, at least three of whom complained of the items piled in the hallway.

Landlord GM testified that the tenant has threatened staff on several occasions. Two letters were provided from staff indicating that the tenant had stated that he wanted to

hit the staff; that he wanted to kill the staff; and using foul language in a threatening manner towards staff. The landlords also supplied an incident report from staff at the supportive housing residence indicating that the tenant had used spray paint in the hallway and refused to stop when asked. One of the complaint letters from another occupant of the residential premises indicated that the tenant spray paints in the hall. The photographic evidence submitted supports these claims.

More than one of the complaint letters and both staff letters indicate that the other occupants and staff of the landlord feel unsafe with the tenant in the residential premises.

Analysis

Based on all of the testimony and evidence provided, I find the landlord has shown on a balance of probabilities that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, and put the landlord's property at significant risk by keeping a large amount of unclean items in the hallway of the residence, by spray painting in the hallway of the residence disturbing other occupants and by using threatening language with both staff and other occupants. I find that the landlord was justified in issuing a 1 Month Notice to End the Tenancy.

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

The tenant made an application to dispute the landlord's notice to end tenancy. The tenant did not attend to support his application. The landlord made an oral request for an order of Possession. The landlord provided sufficient evidence to justify the notice to end tenancy. As I have dismissed the tenant's application, **I find the landlord is, pursuant to section 55(1), entitled to an Order of Possession.**

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 10, 2015

Residential Tenancy Branch

